

**ROLETO A. PAHILAN, PETITIONER, VS. RUDY A. TABALBA,
COMMISSION ON ELECTIONS, AND HONORABLE JUDGE SINFOROSO
V. TABAMO, JR., BRANCH 28, MAMBAJAO, CAMIGUIN, RESPONDENTS.**

G.R. No. 110170. February 21, 1994

Ponente: REGALADO, J.

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REGALADO, J.:

This original action for certiorari impugns the Order[1] of respondent Commission on Elections, dated January 19, 1993, dismissing the appeal filed by petitioner Roletto A. Pahilan for the latter's failure to file a notice of appeal with the Regional Trial Court of Mambajao, Camiguin, and, necessarily on the same rationale, the Resolution[2] promulgated by said respondent on May 6, 1993 denying petitioner's motion for reconsideration.

Petitioner Pahilan and private respondent Tabalba were candidates for Mayor of Guinsiliban, Camiguin during the local elections held on May 11, 1992. On May 13, 1992, the Municipal Board of Canvassers Proclaimed Tabalba as the duly elected Mayor of Guinsiliban, the latter having garnered 1,087 votes as against 806 votes for Pahilan.

Thereafter, Pahilan filed an election protest[3] which he sent by registered mail on May 23, 1992, addressed to the Clerk of Court of the Regional Trial Court of Mambajao, Camiguin, attaching thereto P200.00 in cash as payment for docket fees. In a letter[4] dated May 28, 1992, the OIC-Clerk of Court of the Regional Trial Court of Mambajao, Camiguin, Branch 28, informed Pahilan that the correct fees that were supposed to be paid amounted to P620.00, and that, accordingly, the petition would not be entered in the court docket and summons would not be issued pending payment of the balance of P420.00.

On June 16, 1992, upon receipt of the letter. Pahilan paid the required balance in the total amount of P470.00.[5]

Subsequently, on June 22, 1992, Tabalba filed his Answer with Counterclaim,[6] alleging as one of his affirmative defenses lack of jurisdiction on the part of the trial court to entertain the election protest for having been filed beyond the ten-day period provided by law.

On August 17, 1992, Pahilan filed a Motion for Inhibition, dated August 14, 1992, because of alleged serious and grave doubts that the presiding judge could impartially hear and decide his election protest with the cold neutrality of an impartial judge, as the latter allegedly belongs to and had supported a political group adverse to the candidacy of petitioner.

On August 18, 1992, the trial court proceeded with the pre-trial conference, heard the defense on the allegation of lack of jurisdiction for non-payment of docket fees, and thereafter ordered the parties to submit their respective memoranda.

Tabalba filed his Memorandum in Support of Affirmative Defense of Lack of Jurisdiction,[7] dated September 4, 1992. Under date of September 22, 1992, Pahilan filed a Memorandum[8] as well as a Motion to Resolve Motion for Inhibition Prior to Resolution of Affirmative Defenses.[9]

On October 2, 1992, the trial court issued an Order[10] denying the motion for inhibition and dismissing the election protest for non-payment on time of the required fees for filing an initiatory pleading. Pahilan's counsel received a copy of said order on October 12, 1992 in Cagayan de Oro City.

On October 17, 1992 and within the 5-day period to appeal, Pahilan filed a verified appeal brief[11] in respondent Commission on Elections, with copies duly served on the Regional Trial Court of Mambajao, Camiguin and the counsel for herein private respondent.

On December 12, 1992, the Comelec Contests Adjudication Department directed the Clerk of Court, Regional Trial Court, Camiguin, Branch 28, to immediately transmit the complete records of EP Case No. 3(92) which was being appealed by herein petitioner.[12] Thereafter, in a letter[13] dated January 7, 1993, the said Clerk of Court informed respondent Commission that "to this very late date, this office has not received any notice of appeal from the aggrieved party." As a consequence, respondent Commission, in an Order dated January 19, 1993, dismissed Pahilan's verified appeal for failure to appeal within the prescribed period.

Pahilan filed a motion for reconsideration[14] of the order dismissing his appeal. Both parties were required by respondent Commission to file their respective memoranda. Finally, on May 6, 1993, respondent Commission issued its aforesaid resolution denying Pahilan's motion for reconsideration.

Hence, this petition on the bases of the following assigned errors:

- Whether or not respondent Commission validly dismissed the verified "Appeal" of petitioner which contains all the elements of a "notice of appeal" and more expressive of the intent to elevate the case for review by said appellate body, and furnishing copies thereof to the respondent trial judge and counsel for the adverse party, aside from the incomplete payment of the appeal fee; and
- Whether or not the respondent trial judge validly dismissed the petition of protest of petitioner for non-payment on time of the required fees.

We find cogency and merit in the petition.

The bone of contention in this petition is the alleged erroneous dismissal of petitioner's appeal by respondent Commission because of the failure of petitioner to file a notice of appeal before the Regional Trial Court of Mambajao, Camiguin which, in turn, dismissed the election protest of petitioner for non-payment of docket fees.

The COMELEC RULES OF PROCEDURE provide for the manner in which appeals from decisions of courts in election contests shall be made, to wit:

RULE 22 - Appeals from Decisions of Courts in Election Protest Cases

SECTION 1. Caption and title of appealed cases. - In all election contests involving the elections, returns, and qualifications of municipal or barangay officials, the party interposing the appeal shall be called the "Appellant" and the adverse party the "Appellee", but the title of the case shall remain as it was in the court of origin.

x x x

SEC. 3. Notice of Appeal. - Within five (5) days after promulgation of the decision of the court, the aggrieved party may file with said court a notice of appeal, and serve a copy thereof upon the attorney of record of the adverse party.

SEC. 4. Immediate transmittal of records of the case. - The Clerk of the court concerned shall, within fifteen (15) days from the filing of the notice of appeal, transmit to the Electoral Contests Adjudication Department the complete records of the case, together with all the evidence, including the original and three (3) copies of

the transcript of stenographic notes of the proceedings.

SEC. 5. Filing of briefs. - The Clerk of Court concerned, upon receipt of the complete records of the case, shall notify the appellant or his counsel to file with the Electoral Contests Adjudication Department within thirty (30) days from receipt of such notice, ten (10) legible copies of his brief with proof of service thereof upon the appellee.

Within thirty (30) days from receipt of the brief of the appellant, the appellee shall file ten (10) legible copies of his brief with proof of service thereof upon the appellant.

x x x

SEC. 9. Grounds for dismissal of appeal. - The appeal may be dismissed upon motion of either party or at the instance of the Commission on any of the following grounds:

- (a) Failure of the appellant to pay the appeal fee;
- (b) Failure of the appellant to file copies of his brief within the time provided by these rules;
- (c) Want of specific assignment of errors in the appellant's brief; and
- (d) Failure to file notice of appeal within the prescribed period.

In the case at bar, petitioner received a copy of the trial court's order dismissing his election protest on October 12, 1992. As earlier stated, herein petitioner, instead of filing a notice of appeal as required by the rules, filed with respondent Commission a verified appeal brief within the five-day reglementary period by registered mail under Registry Receipt No. 43093, dated October 17, 1992. It will be noted, however, that on even date, petitioner likewise sent by registered mail copies of his appeal brief to the Regional Trial Court of Mambajao, Camiguin, under Registry Receipt No. 43091, and to the counsel of herein private respondent, under Registry Receipt No. 43092.[15]

The question now posed by the foregoing factual situation is whether the notice of appeal can be validly substituted by an appeal brief. We firmly believe and so hold, under the considerations hereinunder discussed, that the same may be allowed.

First, in cases where a record on appeal is required under the Rules of Court, it has been consistently held that the filing or presentation and approval of the record on appeal on time necessarily implies or involves the filing of the notice of appeal,[16] because the act of taking or perfecting an appeal is more expressive of the intention to appeal than the filing of a mere notice to do so.[17]

If the courts can deign to be indulgent and lenient in the interpretation of the rules respecting ordinary civil actions involving private parties representing private interests, with more reason should the rules involving election cases, which are undoubtedly impressed with public interest, be construed with the same or even greater forbearance and liberality.

It has been frequently decided, and it may be stated as a general rule recognized by all courts, that statutes providing for election contests are to be liberally construed to the end that the will of the people in the choice of public officers may not be defeated by mere technical objections. An election contest, unlike an ordinary action, is imbued with public interest since it involves not only the adjudication of the private interests of rival candidates but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate with respect to who shall discharge the prerogatives of the office within their gift. Moreover, it is neither fair nor just to keep in office for an uncertain period one whose right to it is under suspicion. It is imperative that his claim be immediately cleared not only for the benefit of the winner but for the sake of public interest, which can only be

achieved by brushing aside technicalities of procedure which protract and delay the trial of an ordinary action.[18]

For this reason, broad perspectives of public policy impose upon courts the imperative duty to ascertain by all means within their command who is the real candidate elected in as expeditious a manner as possible, without being fettered by technicalities and procedural barriers to the end that the will of the people may not be frustrated.[19]

It is true that perfection of an appeal in the manner and within the period laid down by law is not only mandatory but also jurisdictional, and that the failure to perfect an appeal as required by the rules has the effect of defeating the right of appeal of a party and precluding the appellate court from acquiring jurisdiction over the case.[20] Nevertheless, in some instances, this Court has disregarded such unintended lapses so as to give due course to appeals on the basis of strong and compelling reasons, such as serving the ends of justice and preventing a grave miscarriage thereof in the exercise of our equity jurisdiction.[21]

It is our considered opinion that public interest is of far greater importance than the justifications of substantial justice and equity in seeking an exception to the general rule. Hence, election cases, by their very nature, should and ought to merit a similar exemption from a strict application of technical rules of procedure.

Second, it has been shown and it is not even denied that the Regional Trial Court of Camiguin, as well as the counsel for private respondent, was furnished copies of the appeal brief which were sent by registered mail on October 17, 1992, within the reglementary period to appeal. This fact was never refuted by the Solicitor General in his Comment. Concomitantly, although the Clerk of Court claimed that he had not received any notice of appeal from herein petitioner, it would be safe to assume, under the circumstances, that the appeal brief duly directed and mailed was received in the regular course of the mail[22] and was therefore, deemed filed with the trial court as of the date of mailing.

Third, applying suppletorily the provisions of the Rules of Court,[23] particularly Section 4, Rule 41 thereof, the requirement is that a notice of appeal shall specify the parties to the appeal; shall designate the judgment or order, or part thereof, appealed from; and shall specify the court to which the appeal is taken. A perusal of herein petitioner's appeal brief will disclose the following information: that the parties to the case are Roletto A. Pahilan as protestant-appellant and Rudy A. Tabalba as protestee-appellee; that appellant therein is appealing from the order of the Regional Trial Court of Mambajao, Camiguin, dismissing the petition for election contest in Election Case No. 3(92); and that the appeal is being made pursuant to Section 22 of Republic Act No. 7166, that is, before the Commission on Elections.

Accordingly, there is no gainsaying the fact that the particulars which ought to be reflected in the notice of appeal have been specifically and categorically spelled out in the appeal brief of petitioner. Perforce, and in light of the foregoing disquisitions, we find and so hold that petitioner is entitled to the relief prayed for.

We now proceed to resolve the issue anent the dismissal of petitioner's election protest by the Regional Trial Court for non-payment, or more accurately the incomplete payment, of docket fees. Ordinarily, with the reversal of the respondent Commission's questioned order, this case should be remanded to said court for adjudication on the merits. Considering, however, the exigencies of time appurtenant to the disposition of election cases, and considering further that the issue has at any rate been squarely raised in this petition, it is now incumbent upon this Court to act on the propriety of the trial court's order dismissing the election protest for failure of petitioner to pay the correct amount of docket fees.

In dismissing petitioner's action, the trial court relied on the rulings enunciated in the cases of *Malimit vs. Degamo*[24] (an action for quo warranto), *Magaspi, et al. vs. Ramolete et al.*[25] (a suit for recovery of possession

and ownership of land). *Lee vs. Republic*[26] a petition for declaration of intention to become a Filipino citizen), *Manchester Development Corporation vs. Court of Appeals, et al.*[27] (an action for a sum of money and damages), *Sun Insurance Office, Ltd., (SIOL) et al. vs Asuncion*.[28] (a suit for a sum of money and damages), and *Tacay, et al. vs. Regional Trial Court of Tagum, Davao del Norte, etc., et al.*[29] (an action for damages). It bears emphasis that the foregoing cases, except on *Malimit vs. Degamo*, are ordinary civil actions. This fact alone would have sufficed for a declaration that there was no basis for the dismissal of petitioner's protest for the simple reason that an election contest is not an ordinary civil action. Consequently the rules governing ordinary civil actions are not necessarily binding on special actions like an election contest wherein public interest will be adversely affected.

The case of *Malimit vs. Degamo*, on its part, is not on all fours with the present case. In that case, the petition for quo warranto was mailed to the Clerk of Court on December 14, 1959 and was received by the latter on December 17, 1959. The docket fee was deemed paid only on January 5, 1960, because the petitioner therein failed to prove his allegation that a postal money order for the docket fee was attached to his petition. Hence, the petition for quo warranto was correctly dismissed.

In the case at bar, it cannot be gainsaid that the sum of P200.00 was attached to the petition mailed to the Regional Trial Court of Camiguin and this fact was even acknowledged by the Clerk of Court thereof when he requested herein petitioner to pay the balance of the correct docket fee. In *Malimit*, there was no docket fee paid at all at the time of mailing; in the present case, the docket fee was paid except that the amount given was not correct. Considering the fact that there was an honest effort on the part of herein petitioner to pay the full amount of docket fees, we are not inclined to insist on a stringent application of the rules.

Furthermore, there are strong and compelling reasons to rule that the doctrine we have established in *Manchester* and cases subsequent thereto cannot be made to apply to election cases.

As we have earlier stated, the cases cited are ordinary civil actions whereas election cases are not. The rules which apply to ordinary civil actions may not necessarily serve the purpose of election cases, especially if we consider the fact that election laws are to be accorded utmost liberality in their interpretation and application, bearing in mind always that the will of the people must be upheld. Ordinary civil actions would generally involve private interests while all election cases are, at all times, invested with public interest which cannot be defeated by mere procedural or technical infirmities.

Again, the Court in *Manchester* made its ruling in view of its finding that there existed the unethical practice of lawyers and parties of filing an original complaint without specifying in the prayer the amount of damages which, however, is stated in the body of the complaint. This stratagem is clearly intended for no other purpose than to evade the payment of the correct filing fees by misleading the docket clerk in the assessment thereof. Thus, the court therein held that jurisdiction shall be acquired only upon payment of the prescribed docket fee.

That ruling was later relaxed in the case of *Sun Insurance* which allowed the subsequent payment of the correct docket fees provided it is made within the reglementary period or before prescription has set in. The reason given was that there was no intent on the part of the petitioners therein to defraud the government, unlike the plaintiff in the case of *Manchester*.

In *Tacay, et al. vs. Tagum, et al.*, it was stated that this Court, inspired by the doctrine laid down in *Manchester*, issued Circular No. 7 on March 24, 1988, which was aimed at the practice of certain parties who omit from the prayer of their complaints any specification of the amount of damages, the omission being clearly intended for no other purpose than to evade the payment of the correct filing fees by deluding the docket clerk in his assessment of the same. In all these cases, the rule was applied for failure of the plaintiff to include in the prayer of the

complaint the total amount of damages sought against the defendant. The reason for this, according to the Tacay case, is because the amount of damages will help determine two things: first, the jurisdiction of the court; and, second, the amount of docket fees to be paid.

In the case now before us, and in election cases in general, it is not the amount of damages, if any, that is sought to be recovered which vests in the courts the jurisdiction to try the same. Rather, it is the nature of the action which is determinative of jurisdiction. Thus, regardless of the amount of damages claimed, the action will still have to be filed with the Regional Trial Court. In such a case, the evil sought to be avoided in Manchester and like cases will never arise. Peremptorily, there will be no occasion to apply the rulings in the cases mentioned. In addition, the filing fee to be paid in an election case is a fixed amount of P300.00. There will consequently be no opportunity for a situation to arise wherein an election contest will have to be dismissed for failure to state the exact amount of damages and thus evince an intent to deprive the Government of the docket fees due.

Finally, in Manchester, there was a deliberate attempt on the part of the plaintiffs therein to evade payment of the correct docket fees. In the case of petitioner, he already explained, and this we find acceptable and justified, that "since the schedule of the new rates of court fees was not then available and the filing of the petition for election contests was done thru the mails, the old rates readily came to mind, and this was the reason why only two hundred pesos was remitted at the same time with the petition." [30]

To summarize, the evil sought to be avoided in Manchester and similar cases can never obtain in election cases since (1) the filing fee in an election cases is fixed and not dependent on the amount of damages sought to be recovered, if any; and (2) a claim for damages in an election case is merely ancillary to the main cause of action and is not even determinative of the court's jurisdiction which is governed by the nature of the action filed.

WHEREFORE, the Order of the Commission on Elections dated, January 19, 1993, as well as its Resolution promulgated on May 6, 1993, both in EAC No. 24-92; and the Order of the Regional Trial Court of Mambajao, Camiguin, dated October 2, 1992, in Election Case No. 3(92) are hereby REVERSED and SET ASIDE, and the records of this case are hereby ordered REMANDED to the court a quo for the expeditious continuation of the proceedings in and the adjudication of the election protest pending therein as early as practicable.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, Vitug, and Kapunan, JJ., concur.

[1] Annex O, Petition; Rollo, 125.

[2] Annex S, id.; ibid., 189.

[3] Annex A, id.; ibid., 31.

[4] Annex C, id.; ibid., 36.

[5] Annexes D to D-4, id.; ibid., 37-39.

[6] Annex E, id.; ibid., 40.

[7] Annex H, id.; ibid., 53.

[8] Annex I, id.; ibid., 57.

[9] Annex G, id.; ibid., 61.

- [10] Annex K, id.; ibid., 63.
- [11] Annex L, id.; ibid., 77.
- [12] Annex M, id.; ibid., 123.
- [13] Annex N, id.; ibid., 124.
- [14] Annex P, id.; ibid., 127.
- [15] Rollo, 88.
- [16] Lopez vs. Lopez, et al., 77 Phil. 133 (1946).
- [17] Peralta vs. Solon, 77 Phil. 610 (1946).
- [18] Unda vs. Commission on Elections, et al., G.R. No. 94090, October 18, 1990, 190 SCRA 827.
- [19] Vda. de De Mesa, et al. vs. Mencias, et al., G.R. No. L-24583, October 29, 1966, 18 SCRA 533.
- [20] Villanueva vs. Court of Appeals, et al., G.R. No. 99357, January 27, 1992, 205 SCRA 537.
- [21] Imperial Textile Mills, Inc. vs. National Labor Relations Commission, et al., G.R. No. 101527, January 19, 1993, 217 SCRA 237.
- [22] Section 3(v), Rule 131, Rules of Court.
- [23] This is expressly authorized by Section 1, Rule 43 of the Comelec Rules of Procedure.
- [24] G.R. No. L-17850, Nov. 28, 1964, 12 SCRA 450.
- [25] G.R. No. L-34840, July 20, 1982, 115 SCRA 193.
- [26] G.R. No. L-15027, January 31, 1964, 10 SCRA 65.
- [27] G.R. No. 75919, May 7, 1987, 149 SCRA 562.
- [28] G.R. Nos. 79937-38, February 13, 1989, 170 SCRA 274.
- [29] G.R. Nos. 88075-77, December 20, 1989, 180 SCRA 436.
- [30] Rollo, 58.

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